

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.) No. S2-4:17-cr-00556-SNLJ NAB
)
MARLON CALDWELL and)
MARK TAYLOR,)
)
Defendants.)

GOVERNMENT'S FIRST MOTION IN LIMINE

Comes now the United States of America, by and through its attorneys, Jeffrey B. Jensen, United States Attorney, Eastern District of Missouri, and Dorothy L. McMurtry and Reginald L. Harris, Assistant United States Attorneys for said district, and moves in limine for an order prohibiting the defendants from referring to or offering any evidence concerning the disclosure of police or accident reports by the Missouri State Highway Patrol or police departments, other than the Saint Louis Metropolitan Police Department (SLMPD).

The Government anticipates that the defendants will attempt to offer evidence that the Missouri State Highway Patrol and a number of police departments in Missouri disclose complete un-redacted accident reports to anyone requesting the reports. The defendants may also argue that SLMPD's policies and practices limiting the distribution of un-redacted accident reports is contrary to Missouri law. Thus, the defendants' provision of the SLMPD un-redacted accident reports to their co-conspirators was not illegal or otherwise prohibited. This is a red herring because evidence of the policies and practices of other police departments is not relevant to the conspiracy and bribery charges that the defendants are facing.

The essence of these charges is that the defendants, while SLMPD police officers, solicited and accepted bribes for providing un-redacted accident reports or information from

these reports, contrary to the policies of the SLMPD. To prove the charged offenses, the Government must prove that the SLMPD was an agency of a local government that received \$10,000 in a one-year period, the defendants were agents of the SLMPD, the defendants solicited and received bribes with the intent to be influenced or rewarded for providing the accident reports, and the transactions involved more than \$5,000. United States v. Hines, 541 F.3d 833 (8th Cir. 2008), *cert. denied*, 555 U.S. 1200 (2009)(affirming conviction of a deputy sheriff for soliciting and accepting bribes in return for assisting and enforcing eviction judgments although his duties included providing such assistance); see also United States v. Redzic, 627 F.3d 683, 692 (8th Cir. 2010), *cert. denied*, 563 U.S. 956 (2011)(It is sufficient to prove an illegal bribe by establishing that the defendant accepted payments with the intent to be influenced or rewarded for a specific course of conduct favorable to the payor.)

Further, any probative value of evidence of the policies and practices of other law enforcement agencies is substantially outweighed by the danger of confusing and misleading the jury as to the issues that they must decide. Additionally, time would also be wasted as the jury is asked to determine the propriety of the SLMPD policies and practices concerning accident reports as compared to other law enforcement agencies. See Fed. R. Evid. 403.

Respectfully submitted,

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United States Attorney

/s/ Dorothy L. McMurtry
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Assistant United States Attorney

/s/ Reginald L. Harris
REGINALD L. HARRIS, #48939MO
Assistant United States Attorney

CERTIFICATE OF SERVICE

I hereby certify that on November 26, 2018, the foregoing was filed electronically with the Clerk of Court to be served by operation of the Court's electronic filing system upon all counsel of record.

/s/ Dorothy L. McMurtry

DOROTHY L. McMURTRY, #37727MO
Assistant United States Attorney